

Message Text

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C O N F I D E N T I A L CAIRO 6411

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SUBJECT: COMMENTS ON DRAFT NAMRU-3 POLICY AGREEMENT

REF: CAIRO 6320

1. AS INDICATED REFTEL, EMBASSY CONSIDERS 1947 NAMRU-3 POLICY AGREEMENT OBSOLETE. IT WAS CONVEIVED IN FAROUKIAN TIMES AND ACUTALLY IS SOURCE OF SOME EMBARRASSMENT IN TERMS OF OTHERWISE EXCELLENT RELATIONSHIPS WHICH HAVE PREVAILED BETWEEN NAMRU AND EGYPTIAN MINISTRY OF HEALTH. EGYPTIAN DESIRE TO REVISE THIS AGREEMENT DOES NOT MEAN ANY LACK OF INTEREST IN NAMRU RESEARCH ACTIVITIES, BUT RATHER THE CONTRARY. WE FEEL THAT APPROPRIATE EFFORT SHOULD NOW BE MADE TO MEET THEIR OBJECTIONS, WHILE, AT SAME TIME, NOT MAKING CONCESSIONS WHICH WOULD ALLOW EGYPTIAN INTERVENTION IN NAMRU ACTIVITIES THAT COULD PROVE TO BE COUNTER-PRODUCTIVE TO OVERALL RESEARCH EFFORT.

2. EMBASSY THEREFORE REQUESTED COMMENTS BY CAPTAIN WALTER MINER, CO, NAMRU-3, ON DRAFT NAMRU POLICY AGREEMENT PREPARED BY MIN HEALTH AND PRESENTED TO DOCTORS COOPER AND EHRlich IN GENEVA BY MINISTER DR. MOHY-EL-DIN (REFTEL). FOLLOWING COMMENTARY ON MINHEALTH DRAFT
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(ANNEX I OF DRAFT US-EGYPTIAN HEALTH AGREEMENT) BASED

LARGELY ON MINER'S COMMENTS PLUS ADDITIONAL EMBASSY OBSERVATIONS. (ARTICLES ON WHICH NO COMMENTS WERE MADE ARE LISTED AS UNOBJECTIONAL BE ALTHOUGH QUALITY OF DRAFT NEEDS TO BE IMPROVED.)

3. ARTICLE (2) - A) MENTION SHOULD BE MADE OF OTHER BUILDINGS OR FACILITIES TO BE BUILT OR PROVIDED IN FUTURE.
B) QUOTE AS SHALL BE AGREED UPON UNQUOTE IN REFERENCE TO PROGRAMS OF MEDICAL AND SCIENTIFIC RESEARCH SHOULD BE DELETED, SINCE SUCH PROGRAMS ARE REVIEWED AND EVALUATED BY US NAVY IN WASHINGTON IN COMPETITION WITH PROPOSED PROGRAMS FOR OTHER NAVAL RESEARCH ACTIVITIES.

4. ARTICLE (3) A) TERMINOLOGY QUOTE SHALL PERMIT THE USE UNQUOTE (IN FIRST SENTENCE) IS UNNECESSARILY PROPRIETARY AND SHOULD BE SUBSTITUTED WITH EXPRESSION INDICATING CONTINUED AVAILABILITY OF CLINICAL AND LABORATORY FACILITIES TO NAMRU.
B) ADDITIONAL WORDING SUCH AS QUOTE IN ACCORDANCE WITH CURRENT AND FUTURE US NAVY INSTRUCTIONS AND DIRECTIVES CONCERNED WITH HUMAN EXPERIMENTATION UNQUOTE SHOULD BE ADDED TO END OF THIRD SENTENCE.

5. ARTICLE (4) A) DELETE IN FIRST SENTENCE QUOTE AS SHALL BE AGREED UPON BY THE TWO PARTIES UNQUOTE FOR REASONS SIMILAR TO THAT DESCRIBED IN ARTICLE (2).
B) DISTINCTION NEEDS TO BE MADE IN SECOND SENTENCE BETWEEN OWNERSHIP OF PHYSICAL INSTALLATIONS AND MOVABLE EQUIPMENT, AND PHRASE OFFERING MORE PROTECTION FOR NAMRU SHOULD SUBSTITUTED FOR QUOTE FOR ANY REASON UNQUOTE.
C) ADDITIONAL PROVISIONS SHOULD BE INCLUDED IN THIS ARTICLE TO DEFINE NAMRU CUSTOMS FRANCHISE AND ABILITY IMPORT AND EXPORT NECESSARY EQUIPMENT SUPPLIES, ETC. INCLUDING OFFICIAL VEHICLES AS WELL AS EXEMPTIONS FROM CUSTOMS DUTIES FOR IMPORTS OF HOUSEHOLD EFFECTS AND PERSONAL VEHICLES.

6. ARTICLE (5) A) NO OBJECT TO FIRST PARAGRAPH SINCE THIS IS PROCEDURE PRESENTLY FOLLOWED.
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B) IT WOULD BE APPROPRIATE TO INTRODUCE INTO THIS ARTICLE DEFINITION OF STATUS AND IMMUNITIES OF US PERSONNEL ASSIGNED TO NAMRU.
C) LAST SENTENCE IS VAGUE AND AMBIGUOUS AND SHOULD BE DEFINED MORE SPECIFICALLY, INCLUDING RESPONSIBILITY FOR ASSIGNMENT OF SUCH "EGYPTIAN RESEARCH WORKERS."

7. ARTICLE (6) A) FIRST SENTENCE IS UNACCEPTABLE AS

IT WOULD PERMIT MINHEALTH TO INTERFERE IN STAFFING
PATTERN DETERMINED BY US NAVY AUTHORITIES IN WASHINGTON.
B) MEANING OF SECOND SENTENCE NOT ENTIRELY CLEAR,
BUT ANY PROVISION OF THIS SORT SHOULD AWAIT PRIOR
DETERMINATION OF WHETHER NAMRU LOCAL PERSONNEL SHOULD
BECOME SUBJECT TO EGYPTIAN LABOR LAW.

8. ARTICLE (7) A) CONCEPT OF "MIXED COUNCIL FOR
POLICY GUIDANCE AND COORDINATION", WHILE A GOOD IDEA
IN PRINCIPLE, IS BASED ON FALSE PREMISE OF HEW ROLE IN
NAMRU-3 ACTIVITIES. ON OTHER HAND, PROPOSAL FOR
"JOINT COUNCIL" COMPOSED OF SENIOR MINHEALTH REPS AND
SENIOR OFFICERS OF MEDICAL RESEARCH AND DEVELOPMENT
COMMAND COULD BE USEFUL, PROVIDING ITS FUNCTIONS ARE CLEARLY
DELIMITED AND ADVISORY.
B) SUBPARAGRAPHS A) AND B) OF THIS ARTICLE WOULD
BE SATISFACTORY WHILE C), D) AND E) ARE NOT. C)
AND D) ARE REDUNDANT EXCEPT FOR REFERENCE IN FORMER
TO FUNDING OVER WHICH THE COUNCIL WOULD HAVE NO INFLUENCE.
E) IS OBJECTIONAL BECAUSE IT IMPLIES CENSORSHIP.

9. ARTICLE (9) A) THERE WOULD BE NO OBJECTION
TO APPOINTMENT OF FULL-TIME EGYPTIAN CO-DIRECTOR
BY MINHEALTH PROVIDED THAT HIS RESPONSIBILITIES ARE
DEFINED SPECIFICALLY AS LIAISON AND RELATIONS WITH
MINHEALTH AND OTHER GOE AGENCIES AS NECESSARY. WE
AGREE THAT HE SHOULD BE APPOINTED AND PAID BY
MINHEALTH AND OTHER GOE AGENCIES AS NECESSARY
AND NAMRU WOULD PROVIDE OFFICE SPACE, SECRETARIAL ASSISTANCE
AND OTHER NECESSARY ADMINISTRATIVE SUPPORT.

10. ARTICLE (10). THIS PROVISION SHOULD BE REPLACED BY ONE WHICH
PROVIDES FOR BILATERAL ARBITRATION OF
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DISPUTES AS IN ORIGINAL POLICY AGREEMENT.

11. ARTICLE (11). WHILE NOT OF MAJOR IMPORTANCE, IT
WOULD BE PREFERABLE IF BOTH ARABIC AND ENGLISH TEXTS
COULD BE REGARDED AS OFFICIAL.

12. ARTICLE (12). IT WOULD BE PREFERABLE TO HAVE
A SIX-MONTH NOTICE PROVISION AS MORE REALISTIC.

13. NAMRU BELIEVES LOCAL CIVILIAN PERSONEL SHOULD
CONTINUE COME UNDER US CIVILIAN PERSONNEL REGULATIONS.
WHILE EMBASSY UNDERSTANDS NAMRU PREFERENCE FOR THIS
AND FACT THAT IN PRESENT SITUATION NAMRU PERSONNEL
POLICIES ARE LINKED TO THOSE OF EMBASSY, WE FEEL THAT
CAREFUL CONSIDERATION SHOULD BE GIVEN TO THE PLACING

OF LOCAL CIVILIAN PERSONNEL UNDER EGYPTIAN LABOR LAWS IN ORDER TO AVOID POSSIBLE COMPLICATIONS AND INVIDIOUS COMPARISONS IN FUTURE. THERE IS NOTHING IN PRESENT CONTRACTUAL AGREEMENT THAT PERMITS OPERATION UNDER US CIVILIAN PERSONNEL REGULATIONS AND PRESENT PRACTICE HAS BEEN LARGELY PRESCRIPTIVE WHICH IS LEGALLY CHALLENGEABLE.

14. WE HAVE TRIED WITH ABOVE COMMENTS TO BE RESPONSIVE TO DRAFT PRESENTED BY EGYPTIAN MINHEALTH. HOWEVER, WE BELIEVE THAT IT WOULD BE FAR PREFERABLE, IF EGYPTIANS COULD BE SO PERSUADED, TO USE AS BASIS FOR NEGOTIATIONS THE DRAFT POLICY AGREEMENT DATED SEPTEMBER 10, 1974 PREPARED BY NAMRU-3, WHICH IS AVAILABLE TO BUMED IN WASHINGTON. THIS TYPE OF DRAFT, WITH ITS MORE SPECIFIC DETAIL WITH RESPECT TO NAMRU STATUS, PRIVILEGES AND IMMUNITIES, IS PREFERABLE BECAUSE IT SEEKS TO ELIMINATE THOSE AREAS OF UNCERTAINTY WHICH COULD POSSIBLY BECOME SUBJECTS FOR DISPUTE IN FUTURE.

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